

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

JAMES EDWARD SCOTT, III,

Plaintiff,

V.

KEAST, et al.,

Defendants.

Case No. 3:23-cv-00258-ART-CLB

**ORDER ADOPTING REPORT AND
RECOMMENDATION (ECF No. 39)**

13 *Pro se* Plaintiff James Edward Scott, III sues Defendants John Keast,
14 Michael Minev, Melissa Mitchell, Galyene Fukagawa, Vanessa Timbreza, Kellen
15 Prost, Kathy Morales, and Lorenzo Villegas, alleging deliberate indifference to
16 serious medical needs in violation of the Eighth Amendment. Before the Court is
17 Defendants' motion for summary judgment (ECF No. 30) and Magistrate Judge
18 Carla Baldwin's report and recommendation ("R&R"), which recommends
19 granting summary judgment (ECF No. 39). Scott did not respond to the motion
20 for summary judgment but filed an objection to the R&R requesting additional
21 time to respond (ECF No. 40). For the following reasons, the Court adopts the
22 R&R and overrules Scott's objection.

I. BACKGROUND

24 The facts of this case are nearly identical to those in *Scott v. Quigley*, Case
25 No. 3:23-cv-00270-ART-CLB.

During the events related to this case, Scott was an inmate in the custody of the Nevada Department of Corrections, housed at Northern Nevada Correctional Center (“NNCC”). In November of 2018, Scott entered NDOC with the

1 following conditions: high blood pressure, chronic kidney disease, and a history
2 of surgeries and hospitalizations. (ECF No. 32-1.) At NDOC, Scott received
3 medical care including routine dialysis treatments. (ECF No. 32.) In July of 2022,
4 Dr. Quigley placed an order for all the nephrology patients who were receiving
5 dialysis care to receive a bag of ice. (ECF No. 30-2.)

6 Scott filed several grievances related to the ice order in 2022 and 2023.
7 (ECF No. 30-1.) In October of 2022, Scott filed a grievance claiming that the order
8 for daily ice was discontinued due to “illegal pressure.” (*Id.*) That grievance was
9 denied because it did not “constitute a medical emergency.” (*Id.*) In the spring of
10 2023, Dr. Quigley’s order for ice was limited to the months of May through
11 September. (ECF No. 30-2.) In March, April, and May of 2023, Scott filed several
12 more grievances complaining that he was not being provided ice. These
13 grievances were mostly denied. (ECF No. 30-1.)

14 In June 2023, Scott filed this lawsuit, along with the almost identical
15 lawsuit in *Scott v. Quigley*, No. 3:23-cv-00270-ART-CLB. (ECF No. 1.) Dr. Quigley
16 was dismissed from this case at screening and remained the only defendant in
17 Scott’s other case. (ECF No. 4.) Defendants now move for summary judgment.
18 (ECF No. 30.)

19 **II. STANDARD OF REVIEW**

20 Under the Federal Magistrates Act, a Court “may accept, reject, or modify,
21 in whole or in part, the findings or recommendations made by [a] magistrate
22 judge.” 28 U.S.C. § 636(b)(1). Where a party timely objects to a magistrate judge’s
23 report and recommendation, then the court is required to “make a *de novo*
24 determination of those portions of the [report and recommendation] to which
25 objection is made.” 28 U.S.C. § 636(b)(1). A court is not required to conduct “any
26 review at all . . . of any issue that is not the subject of an objection.” *Thomas v.*
27 *Arn*, 474 U.S. 140, 149 (1985).

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1 **III. DISCUSSION**

2 Scott did not oppose Defendant's motion for summary judgment, which
3 Judge Baldwin recommended granting on two grounds. Before the R&R, the
4 Court *sua sponte* granted Scott additional time to respond to Defendants' motion
5 for summary judgment. Defendants filed that motion on December 20, 2024.
6 (ECF No. 30.) On January 15, 2025, the Court noted that Scott had not responded
7 and *sua sponte* granted Scott an extension of time to file his response by February
8 18, 2025. (ECF No. 37.) The Court warned Scott that no further extensions would
9 be granted. (*Id.*) Scott did not file a response. On February 25, 2025, Judge
10 Baldwin issued this R&R. (ECF No. 39.) Applying the same analysis as in Scott's
11 other case, the R&R found that Scott failed to establish a genuine issue of
12 material fact as to whether Defendants were deliberately indifferent to a serious
13 medical need. (ECF No. 39 at 7–12.) The R&R also found that Defendants are
14 entitled to qualified immunity. (*Id.* at 12–15.)

15 Though Scott timely objected to the R&R, he does not object its substance,
16 but instead requests additional time to file an opposition to Defendants' motion
17 for summary judgment. (ECF No. 40.) The Court construes this as a motion for
18 an extension of time.

19 **A. Extension of Time**

20 Scott argues that an extension is appropriate because he has complied with
21 deadlines in his almost identical case; his medical condition impacted his ability
22 to timely file; and a brief extension would not prejudice defendants. (ECF No. 40.)
23 Scott also stated that he was "prepared to accept sanctions" if he failed to meet
24 the extended deadline. (*Id.*) Although the Court did not immediately rule on his
25 request, Scott did not file an opposition within his proposed extension of seven
26 days.

27 Defendants argue that the Court should deny Scott's request to file an
28 untimely opposition to the motion for summary judgment because extending the

1 deadline would be futile and because Scott fails to show excusable neglect. (ECF
2 No. 41.)

3 The Court agrees that extending the deadline would be futile. This case
4 involves almost identical facts and the same claim as *Scott v. Quigley*, Case No.
5 3:23-cv-00270-ART-CLB. In that case, the Court considered both Scott's
6 opposition to the summary judgment motion and his objection to the R&R and
7 found that Scott had not raised a genuine issue of material fact as to whether Dr.
8 Quigley violated his constitutional rights. *Scott v. Quigley*, Case No. 3:23-cv-
9 00270-ART-CLB (D. Nev. Apr. 18, 2025), ECF No. 79. The Court also found that
10 Dr. Quigley was entitled to qualified immunity. *Id.* Even if Scott were granted
11 additional time to file a response to the motion, Supreme Court and Ninth Circuit
12 case law would compel the same result in this case.

13 Scott has also failed to show excusable neglect, as required under the local
14 rules. LR IA 6-1. He argues that the Court should have considered his compliance
15 with deadlines in other cases, but that does not affect his failure to comply with
16 deadlines in this case. (ECF No. 40 at 1-2.) The Court is sympathetic to Scott's
17 medical condition, but Scott does not indicate any specific medical circumstances
18 that affected his ability to meet this deadline. (*Id.* at 2.) And although the Court
19 agrees that the extension would not prejudice Defendants in this case, that does
20 not show excusable neglect.

21 Even if the Court were to now grant Scott's extension, the date of his
22 requested extension has passed, and he has not filed a response. The Court
23 therefore overrules Scott's objection, which it construes as a motion for extension
24 of time.

25 Because Scott has not objected to the substance of the R&R, the Court is
26 not required to conduct *de novo* review. The Court finds Judge Baldwin's
27 reasoning persuasive and adopts the R&R.

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1 **IV. CONCLUSION**

2 It is therefore ordered that Judge Baldwin's report and recommendation
3 (ECF No. 39) is adopted.

4 Accordingly, Defendants' motion for summary judgment (ECF No. 30) is
5 granted.

6 The Clerk of Court is instructed to enter judgment accordingly and close
7 this case.

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9 DATED: April 18, 2025

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ANNE R. TRAUM
UNITED STATES DISTRICT JUDGE

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